MINUTES
of the
THIRD MEETING
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

August 5-6, 2014
State Capitol, Rooms 322 and 307
Santa Fe

The third meeting in 2014 of the Revenue Stabilization and Tax Policy Committee (RSTP) was called to order by Senator Carlos R. Cisneros, vice chair, on Tuesday, August 5, 2014, at 9:16 a.m. in Room 322 of the State Capitol in Santa Fe.

Present
Rep. Edward C. Sandoval, Chair
Sen. Carlos R. Cisneros, Vice Chair
Rep. Anna M. Crook
Rep. Brian F. Egolf, Jr.
Rep. Rodolpho "Rudy" S. Martinez
Sen. Clemente Sanchez
Sen. John Arthur Smith
Rep. James R.J. Strickler (8/6)
Rep. Thomas C. Taylor
Rep. Jim R. Trujillo
Sen. Peter Wirth
Rep. Bob Wooley

Absent
Sen. Sue Wilson Beffort
Sen. Timothy M. Keller
Sen. Mark Moores
Rep. Henry Kiki Saavedra
Sen. William E. Sharer
Sen. Lisa A. Torraco

Designees
Sen. William F. Burt
Rep. Ernest H. Chavez (8/6, participating as a member of the Transportation Infrastructure Revenue Subcommittee (TRANS))
Rep. Jason C. Harper
Sen. Nancy Rodriguez
Rep. Luciano "Lucky" Varela
Rep. Donald E. Bratton
Sen. Jacob R. Candelaria
Rep. Miguel P. Garcia
Sen. Phil A. Griego
Rep. Sandra D. Jeff
Sen. Gay G. Kernan
Rep. Tim D. Lewis
Rep. Bill McCamley
Sen. George K. Munoz
Rep. Paul A. Pacheco
Rep. Dennis J. Roch
Rep. Debbie A. Rodella
Sen. John M. Sapien
Rep. Carl Trujillo
Sen. Pat Woods

Guest Legislator
Rep. Cathrynn N. Brown (8/5) (8/6,
participating as a member of the TRANS)

(Attendance dates are noted for members who did not attend the entire meeting.)

Staff
Pam Stokes, Staff Attorney, Legislative Council Service (LCS)
Amy Chavez-Romero, Assistant Director for Drafting Services, LCS
Carolyn Peck, Intern, LCS
Tessa Ryan, Staff Attorney, LCS

Guests
The guest list is in the meeting file.

Handouts
Handouts and other written testimony are in the meeting file.

Tuesday, August 5 — Room 322

State Land Office (SLO) Annual Status and Revenue Update
Ray Powell, commissioner of public lands, reviewed the SLO's mission, objectives and priorities; discussed revenue figures and projections; described some of the partnerships that the SLO has recently entered into; and highlighted some of the SLO's areas of focus.

The vast majority of the state trust land-generated revenue, which the SLO strives to maximize, supports education. The SLO is focused on, among other things, hiring staff with the professional skills to bolster that effort.

Fiscal year (FY) 2014 marked a record in revenue — almost $817 million — generated by state trust lands. That figure topped the previous fiscal year's revenue total by more than $140 million. It is estimated that, due to factors influencing the world markets for oil and gas, total FY 2015 revenue will drop marginally to approximately $802 million. In large part, the recent and projected increases over past years are attributed to oil and gas production in the Permian Basin. Meanwhile, lease sales have continued to generate moderate income, and income from royalties has increased markedly since FY 2010. The SLO continues its efforts to make the state a leader in renewable energy production. Revenue from renewable energy sources has also grown.

Commissioner Powell closed by mentioning some of the partnerships that the SLO has entered into and by cautioning that revenue levels could buck recent trends and fall unexpectedly as a result of a drop in the market price of oil and gas.

On questioning, committee members, Commissioner Powell and SLO staff members in the audience (Greg Bloom, assistant commissioner for mineral resources, Elaine Olah, assistant commissioner, Administrative Services Division, Don Britt, assistant commissioner for commercial resources, and Harry Relkin, general counsel) addressed the following topics.

Revenue estimates. Estimates of revenue from oil and gas production on state lands are conservative and based on a moderate view of anticipated oil and gas production. Anticipated changes in production levels in the Permian Basin were considered in determining the estimates. A member requested more information on revenues from coal-related rentals and royalties, particularly those in the northwest corner of the state.

Oil and Natural Gas Administration and Revenue Database (ONGARD). Some improvements have been made to the ONGARD system, a database that tracks oil and gas production, taxes and royalties, which is considered antiquated. A recent appropriation helped to stabilize ONGARD. The SLO is exploring the possibility of a custom-designed replacement.

Renewable energy revenue source classification. Revenues from solar and wind production are not categorized separately in the chart on page 16 of the handout but, rather, are accounted for in the "Business Leases" category because of challenges involving the ONGARD system and its coding limitations. A member remarked that it seems odd that these are not separately categorized, given the heavy emphasis on development in that sector.

Renewable energy and military bases. A member cautioned that, as happened in a case recently, renewable energy production companies' projects could interfere with the federal Department of Defense's (DoD's) operations. Thus, it is important for those companies to engage with the DoD prior to undertaking such a project. Commissioner Powell responded that the SLO has a good relationship with the DoD and that the SLO encourages companies to communicate proactively with the DoD in such cases.

Revenue from renewable energy sources. Leases for renewable energy project lands are drafted to require payment of a base rent that escalates over time in proportion to the amount of gross revenue earned on electricity production. Revenue from renewable energy leases goes to state land maintenance. In some cases, Federal Energy Regulatory Commission requirements are delaying the realization of revenue from renewable energy sources.

Wind farm-produced energy. As wind farms become more established, data about wind-based energy production become more refined. The SLO works with wind farm companies to gather these data. Commissioner Powell offered to provide maps showing the areas in the state with wind farms.

State land revenues and education spending. Amidst the debate over whether the land grant permanent funds (LGPFs) should be tapped for spending on early childhood education, the SLO took the stance that a sensible way to decrease future penal-system spending is to take the preventive measure of investing in early childhood education. The SLO recognizes the importance of maintaining the strength of the LGPFs, which are replenished by impermanent revenue sources. The SLO thus sought an appropriation for the purpose of studying the viability of generating more revenue for early childhood education by acquiring certain federal lands, but that appropriation was line-item vetoed. The SLO intends to continue its pursuit of identifying alternatives to tapping the LGPFs. A member encouraged the SLO to consider ways around a potential veto and to involve the committee in its efforts at finding an alternative source of revenue for early childhood education. Another member commented that the return on investment related to early childhood education is high and that recent gains on the LGPFs' investments make spending in that area more justifiable.

Revenue and job creation from intellectual capital. The SLO is exploring opportunities to augment revenue and jobs by increasing the number of intellectual capital enterprises, which have the potential to yield high returns on investment on state trust lands. The SLO is encouraging the State Investment Council (SIC) to invest in New Mexico companies wishing to locate on state lands in ways that mitigate loss if a company fails.

SIC Annual Update

Steven K. Moise, state investment officer, SIC, and Vince Smith, deputy state investment officer, SIC, updated the committee on FY 2014 investment performance and on the effects that contributions and distributions have had on the permanent funds, and they gave an overview of the private equity investment program (PEIP).

FY 2014 marked a record year in earnings and distributions. The sum of all funds reached a record high of over $19.8 billion at the end of FY 2014. Strong investment performance will translate to record-high distributions from the LGPFs ($596 million) and the Severance Tax Permanent Fund (STPF) ($182.7 million) in FY 2015. It is projected that $845 million from the LGPFs and the STPF will be distributed in FY 2016. With fund growth comes greater distribution benefits.

Net assets under SIC management have grown considerably since 2000. Since January 2014, there was an all-fund net gain of over $1 billion. Aside from market-related factors and a restructured portfolio (which was rid of some risky investments), some of this growth is attributed to the hiring of new managers and consultants. The optimism associated with this growth is tempered somewhat by relatively weak returns associated with the STPF, whose asset inflows are relatively low. Further, long-term investment returns lag behind the 7.5% annual target. This lag has prompted an interest in altering the portfolio to shift away from capital gains (traditional public markets) and toward overseas investments and real assets (private markets). The outcome of an upcoming general election vote on the issue of raising the maximum allowed for international investments will determine in part the degree of this shift.

Mr. Moise reviewed highlights of the four permanent funds. The LGPFs' value is strong due largely to robust revenue from oil and gas royalties, and there are even odds that such value will remain constant or increase in the next 50 years. The STPF's value is below the 2007 high-water mark, in part because of a high distribution rate and inconsistency in statutorily controlled revenue inflows. The Tobacco Settlement Permanent Fund has not received a contribution since FY 2008 because money has been diverted for other uses, and a court order reduced the corpus by $8.2 million. The Water Trust Fund has not received a contribution since FY 2007, and there is a greater than 50% chance that the fund will be depleted by 2035.

Mr. Moise and Mr. Smith also reported that the SIC is engaging in a tri-annual asset allocation study and in strategic planning, making progress through the legal system in recovering money that was lost due to improper dealings, refining its committees to improve expertise and adding staff to its compliance program, a measure that helps to control risk by institutionalizing best practices for operation.

The SIC is cautiously optimistic about the performance of the PEIP, which has as its primary goals job creation and market-rate returns. Returns have improved significantly since 2004. From 1993 to 2004, the average rate of return was -18.1%, and since 2004, that average was 4.4%. Though this performance is not robust compared with that of the whole SIC portfolio, it is considered strong performance for its asset class. The SIC diligently monitors the PEIP, for which Sun Mountain Capital functions as a program advisor.

On questioning, Mr. Moise, Mr. Smith and committee members addressed the following topics.

Changes to statutory-based severance tax bonding capacity. The SIC has been working on minor changes to House Bill 146 introduced in the 2014 regular session, which was intended to sustain the STPF. A committee member encouraged the SIC to bring that draft legislation to the committee when it is ready.

Distributions from the STPF. A member commented that, in contrast to the way endowments are typically managed, the STPF has a fixed rate of return. With other endowments, boards usually decide that rate based on the amount earned over time on investments. Another member responded that it is prudent for there not to be flexibility in rate-of-return decision-making because of the inclination to increase the rate during times of fiscal hardship — a move that would stunt the fund. Mr. Moise said that the rate of return is a policy decision that the SIC does not attempt to influence. He added that New Mexico's rate of 5.5% of the five previous years' average market value (which will change to 5%) is at the high end of the generally accepted rate of 3% to 5% and that the value of the STPF today is approximately equivalent, when accounting for inflation, to its projected value in 50 years, which spreads the risk of loss approximately equally among generations. A member remarked that five years seems too short a span to use in determining the distribution amount.

A member commented that the function of the STPF (which should not be considered a "rainy-day" fund whose purpose is to provide short-term relief in times of fiscal hardship) is to stabilize revenue flow and make it more predictable. But that function is at odds with the nature of the oil and gas industry, from which the STPF derives the bulk of its value, given that revenues from oil and gas taxes fluctuate. Further, it is projected that the ratio of young to old residents in New Mexico in 2030 will be approximately even, which will intensify the need for stability.

Other. Members also commented that there should be more public awareness through media attention paid to large transfers, like the one made recently, to the STPF and that the 4.4% rate of return associated with private equity investments is poor when looked at in relation to the 7% target for other investments. In response to a member's request, Mr. Moise said that the SIC will try to provide information on how sponge bonds are issued and how that issuance is controlled.

Premium Tax Update

John Franchini, superintendent of insurance, introduced members of the Office of Superintendent of Insurance (OSI) staff who were in the audience. He then outlined the sources and uses of insurance-related revenue and aspects of insurance-related taxes.

The OSI collects approximately $200 million each year, mostly from taxes levied on insurance companies that write policies in the state. Approximately 95% of that total is used for OSI operations or is transferred to the general fund, the Fire Protection Fund, the Law Enforcement Protection Fund, the Public Election Fund (to which transfers ended on July 1, 2014) or the Carrie Tingley Crippled Children's Hospital Program Fund. Other revenue derives largely from licensing fees. Insurance premium taxes are levied on insurance companies, health management organizations, Mexican casualty companies, nonprofit health care plans, prepaid dental plans, property bail bond agents, purchasing groups, risk retention groups, self-insureds and title insurance companies. For insurance premiums, the tax rate is 3.003%. A surtax increases the rate on health insurance premiums to 4.003%, which is one of the highest in the nation. Deductions and credits may reduce the amount of tax owed. Certain insurance premiums, which are government-related, are exempted from the tax. By law, only the insurance premium tax and property taxes may be levied on taxpayers liable for taxes pursuant to provisions of the New Mexico Insurance Code.

At present, premium taxes and surtaxes are paid quarterly; Superintendent Franchini indicated that legislative efforts will be made to change the payment and collection schedule to improve ease. If an overpayment of a fee, license, penalty or tax is made, the superintendent may authorize a refund of the overpaid amount if the refund is requested within three years of the overpayment. Alternatively, the amount of overpayment on a premium tax may be requested within three years as a credit toward premium tax owed. The OSI intends to seek a legislative change to this three-year provision.

Superintendent Franchini reviewed a flow chart showing premium tax and surtax collections and distributions, a table showing the history of revenues from 2010 to the present and a table showing revenue collections and distributions for FY 2011 to FY 2014. The amount of OSI-related revenue deposited to the general fund increased by over $8 million from FY 2013 to FY 2014. Superintendent Franchini also reviewed tables illustrating premium taxes collected and New Mexico Medical Insurance Pool (MIP) credits; he commented that changes resulting from federal health insurance reform will eventually make the MIP obsolete, but the pool cannot yet cease to exist because some recipients of its funds are in ongoing treatment.

Superintendent Franchini closed by reviewing areas of law that will be proposed for change. The committee will be asked to endorse those proposals.

Public Comment

Two representatives of organizations raised concerns about the well-being of children in New Mexico.

Miguel Gomez, policy director, St. Joseph Community Health, spoke about the importance of focusing state spending to decrease the teen birth rate and the dropout rate and to improve overall child well-being. Mr. Gomez argued that the state has enough money in the LGPFs to support early childhood education and that if money is invested in children's education, the state will have more revenue generated by that educated group to offset the future costs associated with the state's aging population. Mr. Gomez testified that representatives from the SIC refused his request for a meeting to discuss the fiscal implications of withdrawing more from the LGPFs for early childhood education. He also expressed doubt that the state's buying federal lands, in accord with the SLO proposal, would generate substantial revenue. To the contrary, he said, buying land to help subsidize corporations — as happened in the case of Mesa del Sol — imposes a burden on the state.

Bill Jordan, senior policy advisor, New Mexico Voices for Children, remarked on the record growth of the LGPFs and said that if the measure to annually spend 1.5% of the LGPFs on early childhood education that was proposed in 2011 had passed, the funds' balance would be $13.6 billion, as compared with the current balance of $14 billion. Mr. Jordan stressed the poor status of New Mexico's children and the state's consistently low rankings among states in measures of child well-being. He closed by saying that the return on investment in a child is 16% over that child's life, which is higher than the return realized by the LGPFs' current investments.

Laboratory Partnership with Small Business Tax Credit Annual Report

Belinda Snyder, economic development program manager, Los Alamos National Laboratory (LANL), and Genaro Montoya, New Mexico small business assistance program manager, Sandia National Laboratories (SNL), spoke about the New Mexico Small Business Assistance (SBA) Program. Bill Watts, owner, Data Center Transitions, Inc., testified on the help he received through the program to launch his small business.

Mr. Montoya said that the SBA Program, which is administered by the Taxation and Revenue Department (TRD) and is based on a partnership among LANL, SNL and small business owners, addresses a wide range of small business needs. The program supports projects based in urban and rural parts of the state. After a small business receives program assistance, a third party conducts an economic impact survey of the project. Through that data collection, it has been determined that 2,195 businesses have been helped and that the two laboratories have provided $39 million worth of technical assistance to small businesses.

Ms. Snyder added that the program aims to broaden the range of business types that it serves. At present, most of the businesses helped through the program are in the following industries: agriculture; oil and gas; renewable energy; manufacturing; and high technology.

Mr. Watts, recipient of the "Honorable Speaker Ben Luján Award for Small Business Excellence" for demonstrating the greatest economic impact of any business that participated in the program in 2013, described his business and how the program helped it. Data Center Transitions, Inc., builds enclosures for computer systems and has designed a lift to move fully loaded server cabinets from one place to another. Robotics engineers at SNL helped him develop a way to use devices to more safely lift the equipment.

Approval of Minutes

On a motion made and seconded, the minutes from the July 8-9, 2014 meeting were unanimously approved.

Sources and Uses of State Capital Funding

Stephanie Schardin Clarke, director, State Board of Finance (BoF), and Jimmy Rodriguez, executive capital analyst, Capital Outlay Bureau, Department of Finance and Administration (DFA), informed the committee about the sources and uses of state capital funding. They began by providing overviews of the general obligation (GO) and the severance tax bond (STB) programs. Constitution-based provisions related to the GO bond program cap the principal amount of outstanding bonds, which generate money for projects approved through the legislative process and that are usually for higher education infrastructure, at 1% of the statewide assessed property value. In the GO bond program, bond issuance is subject to voter approval. Meanwhile, the STB program allows for the issuance of senior STBs and supplemental STBs. Senior STBs, which are earmarked for various capital projects, including capital outlay and tribal, colonias and water infrastructure, may be issued to the point at which debt service can be paid with 50% of the prior fiscal year's Severance Tax Bonding Fund (STBF) revenue. Supplemental STBs, which are earmarked for public school capital projects, may be issued to the point at which debt service can be paid with 45% of that revenue.

Ms. Schardin Clarke highlighted the volatility of revenues to the STBF. Bonding capacity is determined in a way that somewhat accounts for and responds to that volatility, but distributions from the STPF remain somewhat inconsistent. She next presented a detailed table of the actual and forecasted sources and uses of money in the two bonding programs and a chart (on page seven of the presentation handout) showing a breakdown of those uses for the three most recent fiscal years.

Mr. Rodriguez discussed infrastructure capital improvement plans (ICIPs), which are five-year plans developed by state agencies and local entities that establish priorities for capital projects, and the deadlines of those plans' submission. He reviewed a pie chart illustrating the proportion of ICIP capital project requests for 2015 by type. The three categories with the most requests (as illustrated on page nine of the handout) are: 1) public schools, charter schools and special schools; 2) public buildings and equipment; and 3) highways, roads and bridges. Ms. Schardin Clarke directed the committee's attention to the discrepancies between the pie charts on pages seven and nine, pointing out that the amount of actual funding for projects does not correspond in proportion with identified project needs.

On questioning, Ms. Schardin Clarke, Mr. Rodriguez and committee members addressed the following topics.

Bond types and sales. The process for GO bond sales differs from that for STB sales. The sale of short-term notes involves the services of advisors, underwriters, counsel and consultants. These services, for which the state pays fees, are secured through contracts. For all bond sales, the determination of type of bond sold for a particular purpose is influenced by federally established parameters and project duration and use. While awaiting expenditure, bond proceeds are invested in a way that allows ample liquidity. By law, the BoF may not refrain from issuing bonds for an authorized project if it meets certain requirements or from exceeding the capacity for bond issuance as that capacity is determined by the BoF and the state treasurer.

STBs for state highway projects. State highway projects could be funded: 1) through the capital outlay bill, which would require no amendment to the Severance Tax Bonding Act (STBA); or 2) by carving out a portion of state revenues, which would require amending the STBA.

Committee member requests. The presenters agreed to help a member with a concern about a particular project. A member requested county-by-county information on property valuation that collectively determines the amount equivalent to 1% of statewide assessed property value. Ms. Schardin Clarke responded that the Local Government Division of the DFA is an appropriate source for that information.

Advancing Electric Vehicles (EVs) in New Mexico

Tammy Fiebelkorn, New Mexico representative, Southwest Energy Efficiency Project (SWEEP), Will Toor, transportation program director, SWEEP, and Daniel Lorimier, conservation coordinator, Rio Grande Chapter of the Sierra Club, constituted a panel that discussed policies to encourage EV ownership and use in the state.

Mr. Lorimier explained that EVs do not run partially on gasoline like plug-in hybrid vehicles do but, rather, entirely on battery power. EV drivers thus save on fuel costs; these savings, he said, are invested in other areas of the economy. There is a corresponding reduction in pollution associated with EVs. New Mexico's rate of sale and use of EVs and its rate of increase of sales is lower than those of surrounding states and nationally. Moreover, there are fewer public charging stations in New Mexico than in surrounding states. In large part, these differences are attributable to differing levels of state promotion of EVs.

Ms. Fiebelkorn and Mr. Toor reviewed provisions of proposed legislation that the panel supports, which include an annual fee, a capped tax credit for EV sales and a capped credit for commercial charging station sales. The annual fee would be $30.00 per year. The tax credit for a purchase of an EV would be $2,500, and the credit for establishing a charging station would be 30% of the cost of the charger up to $3,000, or up to $5,000 for a solar charger. Mr. Lorimier reviewed the benefits and estimated fiscal impact of the proposed legislation, if implemented. Because of the higher cost of EVs, the state would receive more in excise taxes than on comparable conventional vehicles. Further, the state would realize benefits in the form of residents receiving federal tax credits, residents' savings on fuel, investment in charging stations, increased sales of EVs, reduced air pollution and payment in congruence to conventional-vehicle drivers for road maintenance.

On questioning, Ms. Fiebelkorn, Mr. Lorimier, Mr. Toor and committee members addressed the following topics.

Calculation of the proposed annual fee. The proposed fee was calculated using estimates of what drivers of the most fuel-efficient vehicles currently pay, on average, in gasoline taxes each year.

Proposed legislation. A member remarked that passing this legislation would send a positive signal to Tesla, which is considering the state for its planned EV-battery manufacturing plant, that the state supports the purchase and use of EVs. Another member suggested that the EV-sale credit be transferable, so that the buyer could assign it to the dealer and offset the up-front cost of purchase.

Resale of EVs. Members commented that the proposed credit would not necessarily apply to EV leases nor encourage the resale of EVs because only the original buyer would be able to take advantage of the credit.

Environmental costs of EVs. A member commented that there are high environmental costs, such as hazardous chemical use and pollution, associated with manufacturing EV batteries and that those costs should be considered along with the benefits of the new technology.

The committee recessed at 3:57 p.m.

__Wednesday, August 6__ **— Room 307**

The committee reconvened for a joint meeting with the TRANS on Wednesday, August 6, 2014, with Representative Roberto "Bobby" J. Gonzales chairing the meeting.

Status of Congressional Action on the Federal Highway Trust Fund (HTF) and Implications for New Mexico's Highway Program Funding

Tom Church, secretary, Department of Transportation (DOT), stated that there had been differing House and Senate proposals in Congress for funding the federal HTF. However, Congress had been able to pass a bill that funds the HTF through May 2015. However, he indicated, this is a relatively short-term solution. Secretary Church stated that if Congress does not craft long-term funding legislation before June 2015, New Mexico will have to cut back on its road spending. Secretary Church stated that the DOT has not yet taken any drastic steps regarding reducing spending. Rather, the DOT has been able to move $12 million within DOT programs to use for striping, signage and overlays throughout the state.

In the following discussion, Secretary Church raised two concerns about how the federal process affects DOT programs. First, the DOT uses federal funding to help service debt, and there is a major payment due in June 2015. If Congress has not passed a long-term funding bill for the HTF by that date, a large portion of the DOT's state funding will have to be redirected to debt service. Second, the lack of certainty in federal funding is affecting the DOT's planning process. The DOT may not begin designing projects until funding for the project is identified. The standard planning and design process takes three years, and the funding issue creates a delay in road projects. He noted that one way to shorten the process is to use design-build techniques, but those must be authorized by the legislature on a project-by-project basis.

At this point, Senator Ron Griggs proffered a concept for dedicating additional state funds to New Mexico's road construction and other public infrastructure needs. He suggested that $100 million of annual severance tax bond revenues for each of the next four years could be directed toward statewide construction programs. In the concept he raised, two years of this funding would be dedicated to state roads and one year each would be directed to public building construction and to water projects. In the ensuing discussion, RSTP and TRANS members raised questions about how projects would be prioritized. A separate issue raised by a committee member was whether the proposal was large enough to address the problem. It was noted that the DOT has a much larger shortfall in funding than would be covered by the proposal, including a "debt-cliff" payment due at the end of 2025.

Wyoming: An Approach for Enacting a Comprehensive Response to Transportation Funding

Wyoming State Representative Michael K. Madden, chair, House Revenue Committee, Wyoming State House of Representatives, began by comparing Wyoming's and New Mexico's transportation funding and financing. Representative Madden noted that New Mexico and Wyoming have comparatively low vehicle fuel taxes, which he referred to as user fees. Also, the transportation departments in both states have been rated nationally within the top five for cost efficiency. (See the Reason Foundation report, handout 2A.) Further, both states supplement their fuel tax revenue for road construction programs. Wyoming supplements with mineral royalties and commercial trucking registration fees; New Mexico relies on a weight-distance tax instead.

Representative Madden then described some ideas that were successful in Wyoming for increasing fuel taxes. First, he argued that fuel taxes are fair user fees; if one does not use the roads, one does not pay the fuel tax that pays for their maintenance or construction. Second, well-constructed and well-maintained roads save money in the long run by reducing damage to vehicles. Finally, he noted that fuel tax is typically a set fee per gallon, unlike a sales tax, which is a percentage of the cost. He argued that raising a fuel tax allows competing vendors to adjust the sale cost according to their own business plans. He was of the opinion that the fuel tax increase enacted by Wyoming resulted in a much lower increase in cost to the consumer than if it had been a sales tax.

Representative Madden next explained the process for how fuel tax legislation was promoted in Wyoming. Representative Madden stressed that timing can be very important for a public discussion regarding fuel taxes. The legislative leadership in Wyoming had been supporting a variety of legislation to increase road funding for several years, but without much success. The effort gained momentum when a coalition of taxpayer and industry groups in Wyoming started publicly supporting the idea of raising the fuel tax. Representative Madden believes the coalition's efforts influenced public opinion. (See handouts 2B, 2C and 2D for publications by the Wyoming coalition.)

Representative Madden explained that even with favorable public dialogue, the effort required an intensive communication effort by Wyoming's legislative leadership to keep in contact with the governor and with each individual legislator. Evidently, the effort did not get strong support from Wyoming's governor; Representative Madden stressed that the request to Wyoming's governor was simply not to veto the legislation should it pass the legislature.

Representative Madden then summarized Wyoming's experience over the past year since raising its fuel tax rate. Representative Madden expressed his opinion that the results over the past year have mitigated unfounded fears about raising the rate. Further, revenues from fuel taxes have been higher than projections. He explained that the greater revenues stemmed from two processes: 1) retail businesses with multiple locations across state lines had been internalizing the lower fuel fees in Wyoming but charging similar prices at all their locations; and 2) the fuel tax payment rules for commercial truckers under the International Fuel Tax Agreement, commonly referred to as IFTA, had been depressing commercial fuel sales in Wyoming although its fuel tax was significantly lower than in neighboring states.

During the discussion concluding his presentation, Representative Madden expanded upon two distinctions between Wyoming and New Mexico. Unlike New Mexico, Wyoming does not bond for any road construction or maintenance. This limited some of the options for road financing. Conversely, Wyoming has a constitutional provision requiring that fuel taxes be spent on roads. Representative Madden indicated that this provision was helpful in gaining public support for the fuel tax legislation.

Representative Madden also noted that Wyoming used to have a weight-distance tax as New Mexico currently does. Wyoming's trucking industry lobbied the legislature to switch to higher vehicle registration fees because complying with the weight-distance tax was too cumbersome for truckers. He remarked that New Mexico may have to drastically increase its commercial truck registration fee in order to make the same change and keep it revenue-neutral.

As a final note, Representative Madden remarked that Wyoming's alternative for needed road funds would have been to use general fund money. He argued that using general fund money for roads would have given an unfair benefit to tourists, cross-border commuters and other road users who do not pay taxes into general fund.

North Dakota: Meeting the Highway Funding Needs of an Oil Boom

North Dakota State Senator Ray Holmberg, chair, Senate Appropriations Committee, North Dakota State Senate, began his presentation by describing North Dakota's recent economic growth. North Dakota has ranked first in the United States in personal income growth in three of the last four years. An oil boom in the western part of the state has been responsible for much of the growth. The oil industry accounts for 15% of the work force in North Dakota and about 30% of all wages paid. The state is producing approximately one million barrels of oil a day. Senator Holmberg cited a Moody's analysis that transportation infrastructure health will ultimately decide how long North Dakota can continue to grow.

Senator Holmberg proceeded to explain that North Dakotans are historically averse to raising tax rates and have resisted efforts to raise rates during the recent growth, reasoning that tax revenues are high enough to fund the state's needs already. Rather than raise fuel tax rates, the North Dakota Legislature appropriated $1.2 billion from the state's general fund to the state's highway fund specifically for projects in areas affected by oil and gas development. Senator Holmberg stated that the appropriation was one of the first things the legislature did. He noted that this was important because permafrost conditions impose time limits during North Dakota's construction season.

Senator Holmberg told the RSTP and TRANS members that appropriating from the general fund had been a challenge. The North Dakota Legislature had not diverted funds from the general fund to the highway fund before, so legislators were reluctant to do so for the first time. Legislators were also reluctant to earmark funds for certain geographic areas, thinking that doing so could be a slippery slope toward dictating how the North Dakota transportation department spends its appropriations. Further, there was a concern that appropriating from the general fund would also encourage other groups to lobby for special interest appropriations in the future.

During a general discussion following these remarks, Senator Holmberg explained that, unlike New Mexico, North Dakota does not have a highway commission. It simply has a secretary of transportation, appointed by the governor, who administers North Dakota's transportation department.

Senator Holmberg also expounded on some of the challenges of having an oil boom. On the one hand, North Dakota has had such a large increase in state revenues that the legislature has had to create mechanisms to protect some revenues as a hedge against future downturns. The state has created a Legacy Fund that receives 30% of all tax revenue derived from oil and natural gas extraction. The legislature may not appropriate from the fund until 2017, and it may only do so after that with a two-thirds' vote. On a negative note, the oil boom has created some problems for retirees in oil-producing counties because the cost of living has increased.

Responding to questions from a committee member about oil development, Senator Holmberg explained that North Dakota had developed a compact with one of its oil-producing Native American tribes regarding production regulations and that this helped drive on-reservation oil development. He responded to a question about the proposed Keystone pipeline, saying it would be helpful in getting North Dakota's oil to market. He noted that the alternative is to use freight rail.

New Mexico Highway Funding — Comparison Projections with Different Fee Structures

Secretary Church and Clinton Turner, chief economist, DOT, began by explaining to the RSTP and TRANS that the State Road Fund is supported by four revenue streams: (1) a gasoline tax; (2) vehicle registration fees; (3) a diesel fuel tax; and (4) a weight-distance fee. The first two taxes/fees are paid mostly by families, and the last two are paid mostly by the commercial trucking industry in New Mexico.

Secretary Church and Mr. Turner then directed the members' attention to the handout they provided, which shows how increases in different tax rates and fees would affect the State Road Fund. Mr. Turner stated that one-cent increases in the gasoline and diesel taxes would increase revenues by $8.7 million and $5 million, respectively. Increasing vehicle registration taxes by 10% would increase revenues by $7.8 million, and increasing the weight-distance tax by 10% would increase revenues by $8 million. Additionally, Secretary Church pointed out that abolishing the weight-distance tax would require raising vehicle registration fees to around $3,000 a year in order to remain revenue-neutral.

After these opening remarks, Secretary Church gave an overview of the DOT's financial status. He said the indications are that federal funding will remain flat and that state road revenues will increase 2% in the current fiscal year. With those funding limits in mind, he pointed out that 19% of the DOT's annual budget is dedicated to debt service. Therefore, the DOT's focus has of necessity been on maintaining roads rather than building new ones. It would require major new funding to allow for new construction.

Delving into the debt issue, Secretary Church explained that the DOT's total debt is $1.9 billion, including principal and interest. A complicating issue is that a significant portion of the debt is in the form of a floating interest rate on the bonds issued for the Rail Runner, he noted. He said it would require a $109 penalty payment to reconfigure the floating rate into a fixed rate.

Regarding the weight-distance fees, Secretary Church reported that the DOT has formed a working group with the Department of Public Safety and the Taxation and Revenue Department to investigate compliance issues with the weight-distance and oversize-truck payments. The group plans on bringing a recommendation to the next legislative session.

There being no further business, the RSTP adjourned at 12:48 p.m.